

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 08-3638-JFW(CW)	Date	March 6, 2012
Title	Donovan Castro v. D. Rees, M.D., et al.		

Present: The Honorable	Carla Woehrlé, United States Magistrate Judge
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Donna Y. Thomas

n/a

n/a

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

n/a

n/a

Proceedings: (In Chambers)

Plaintiff's civil rights complaint, addressing prison medical claims, was filed on August 15, 2008. [Docket no. 3.] Defendants' answer was filed on February 13, 2009. [Docket no. 19.] In the course of this litigation Plaintiff has repeatedly changed his address and has been in and out of custody, with the result that, several times, documents sent to Plaintiff have been returned to the court or to Defendants' counsel.

In a minute order filed February 22, 2011, the court granted Defendants' motion to compel discovery responses, ordered Defendants to re-serve their discovery requests on Plaintiff's new address, and ordered Plaintiff to respond. [Docket no. 43.] Plaintiff instead submitted discovery responses to the court, and the court, in discrepancy notices filed April 26 and 28, 2011, ordered them returned to Plaintiff and ordered Plaintiff to send them to Defendants' counsel. [Docket nos. 47-49.] Plaintiff's responses, as attachments to the discrepancy notices, were electronically served on Defendants' counsel and are accessible electronically from the case docket. [Id.]

In an amended motion filed May 18, 2011, Defendants moved to dismiss for failure to prosecute based on Plaintiff's failure to serve discovery responses and his failure to keep his mailing address properly updated. [Docket no. 51.] Plaintiff filed opposition on September 28, 2011. [Docket no. 64.] Defendants filed a reply on October 10, 2011. [Docket no. 66.] On October 13, 2011, Plaintiff filed a notice of change of address, indicating that he was about to be transferred from the Deuel Vocational Institution, a facility of the California Department of Corrections and Rehabilitation (CDCR), to the Butte County Jail, and giving his new address. [Docket no. 69.]

Today the court searched the CDCR's online inmate locator and

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found no record of Plaintiff now being in CDCR custody. The court also searched, online and telephonically, the jail inmate locator of the "VINE" system used by the Butte County Jail and found no record of Plaintiff now being in the custody of Butte County.

The court now **ORDERS** as follows:

1. On or before March 28, 2012, Plaintiff is **ORDERED TO SHOW CAUSE** in writing why this case should not be dismissed for failure to comply with Local Rule 41-6 of this court, which provides as follows:

A party proceeding pro se shall keep the Court and opposing parties apprised of such party's current address and telephone number, if any, and e-mail address, if any. If mail directed by the Clerk to a pro se plaintiff's address of record is returned undelivered by the Postal Service, and if, within fifteen (15) days of the service date, such plaintiff fails to notify, in writing, the Court and opposing parties of said plaintiff's current address, the Court may dismiss the action with or without prejudice for want of prosecution.

If Plaintiff does not timely respond to this order to show cause, his action will be subject to dismissal, without prejudice, for failure to comply with Local Rule 41-6.

2. Defendants' motion to dismiss (docket no. 51, filed May 17, 2011) is **DENIED WITHOUT PREJUDICE** in light of the above.

cc: Donovan Castro
Butte County Jail
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Oroville, CA 95965

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